

DOCKETED

APR - 9 2004

IN THE
UNITED STATES DISTRICT COURT
OF THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)

Plaintiff,)

vs.)

No. 03 C 3644

FUNDS IN THE AMOUNT OF ONE,)

HUNDRED THOUSAND AND ONE)

HUNDRED TWENTY DOLLARS)

(\$100,120.00 U.S.C.),)

Defendant.)

-----)
NICHOLAS P. MARROCCO, and)

VINCENT J. FALLON,)

Claimants.)

The Honorable Elaine E. Bucklo,
District Judge, Presiding

FILED
APR 05 2004

ELAINE E. BUCKLO
UNITED STATES DISTRICT COURT

NOTICE OF MOTION

To: James Kuhn, Esq.
Assistant United States Attorney
219 South Dearborn, 5th floor
Chicago, Illinois 60604

On April 8, 2004 at 9:30 a.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Elaine E. Bucklo, or the judge sitting in her stead in Courtroom No.1903 which is usually occupied by her in the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois, and shall then and there present and request a hearing instantar as to the attached Motion for Leave to File Additional Pretrial Motions, Motion for Leave to File Motion to Suppress, Motion to Vacate the Pretrial Date, Motion to Bar Expert Testimony, and Claimant's Objections to United States' Pretrial Order.

Debra A. Liss

Debra A. Liss

Attorney for Claimant, Nicholas P. Marrocco

LAW OFFICES

KOMIE AND ASSOCIATES

One North LaSalle Street - Suite 4200

Chicago, Illinois 60602-4005

Telephone (312) 263-2800

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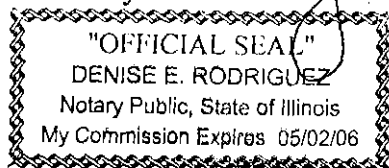
PROOF OF SERVICE VIA DELIVERY

I, Susan Toney, a non-attorney on oath, state I served this Notice of Motion and a true and correct copy of the **above noted motions** to the above named party (ies) at the above address per personal delivery before 5:00 p.m. on 5 day of April, 2004.

Susan Toney

Signed and sworn to before
me this 5 day of April, 2004.

Denise E. Rodriguez
Notary Public



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JOSE E. BUCKLO
UNITED STATES DISTRICT COURT

MOTION FOR LEAVE TO FILE MOTION TO SUPPRESS

NOW COMES the Claimant, NICHOLAS P. MARROCCO, by and through his attorney, STEPHEN M. KOMIE of KOMIE AND ASSOCIATES, and respectfully moves this Honorable Court for leave to file a Motion to Suppress the seizure of the currency. In support thereof, states as follows:

1. That the case at bench involves the seizure of over \$100,000.00 in United States currency at Union Station in Chicago. At the time of seizure no drugs were found. Subsequently, no drugs have ever been linked to this currency other than by a dog sniff.
2. That before the Court commences a jury trial in this matter, and expend substantial amounts of its time engaging in a fact finding process with a jury, it would be in the interest of justice to allow the Claimant to file a Motion to

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Suppress and have the Court hear this matter outside the presence of a jury. In the event the Court were to grant the Motion to Suppress, no jury trial would be necessary.

3. That in considering this matter the Court may wish to look at the Complaint filed by the United States. The Complaint clearly on its face does not indicate any connection between the money and the sale of narcotics, or the intended sale of narcotics, or proceeds of a narcotics sale.
4. That this Court is inundated with narcotics cases. The Court obviously understands the nature of narcotics transactions from the evidence it has heard multiple times. Rarely does the Court ever have a case in front of it where there is only currency and no narcotics.
5. That no one would be prejudiced by the Court hearing this motion before the machinery of a jury trial is engaged and substantial amounts of time of the citizens and the scarce resources of this Court are placed into play, when this case may be simply disposed of by a Motion to Suppress.
6. That normally counsel for Claimant would prepare the Motion to Suppress and file it prior to the hearing on the instant motion. However, leaving to be with one's children and flying internationally prevented counsel from achieving this efficiency prior to leaving town.

WHEREFORE, for the foregoing reasons, the Claimant, NICHOLAS P. MARROCCO, respectfully prays for an order of this Court allowing the filing of a Motion to Suppress and the scheduling of the same for hearing.

Respectfully submitted,

NICHOLAS P. MARROCCO, Claimant
By and through his attorneys
KOMIE AND ASSOCIATES

By: Debra A. Liss
Debra A. Liss